

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Kristine K. Thomas,
Petitioner-Appellant,

v.

City of Cedar Rapids Board of Review,
Respondent-Appellee.

ORDER

Docket No. 10-101-0336
Parcel No. 14221-38002-00000

On March 25, 2011, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The appellant, Kristine K. Thomas, was self-represented and requested the appeal take place without a hearing. The City of Cedar Rapids Board of Review designated Attorney James H. Flitz as its legal representative. The Appeal Board now having examined the entire record, and being fully advised, finds:

Findings of Fact

Kristine K. Thomas, owner of residential property located at 1635 3rd Avenue SE, Cedar Rapids, Iowa, appeals from the City of Cedar Rapids Board of Review decision reassessing her property. The real estate was classified residential for the January 1, 2010, assessment and valued at \$56,060; representing \$9106 in land value and \$46,954 in dwelling value. This was a change from the 2009 assessment.

Thomas protested to the Board of Review on the grounds that the property was not equitably assessed compared to other like properties under Iowa Code section 441.37(1)(a) and that the property was assessed for more than authorized by law under section 441.37(1)(b). Thomas also protested under section 441.37(1)(d) that there was an error in the assessment. However, this claim stated, “see

attached paper, according to zoning it is an irregular shape and substandard lot.” The attachment is a partial plat map of the subject site identifying it as triangular in shape. The Board of Review reduced the assessed value to a total of \$48,920; representing \$9106 in land value and \$39,814 in dwelling value. The Board stated in part, “after consideration of all the data, the assessment was changed.”

Thomas then appealed to this Board reasserting the grounds of inequity and over-assessed. Thomas seeks \$18,892 in relief and values the property at \$30,028.

According to the property record card, the subject property consists of a two-story frame dwelling built in 1908 and having 1259 square feet of total above-grade living area, an unfinished attic, a full unfinished basement, and a 25 square-foot deck. It is in normal condition and is located on a 0.087 acre site. There is no garage. Notes on the property record card dated December 2003 state: “No recent interior remodeling, older siding, roof 2002. Fenced yard.”

Thomas stated in a letter that her property was assessed at a higher rate than the neighbors’ dwellings. Thomas notes the neighbors had a decrease in their tax assessments whereas her property assessment increased.

Thomas submitted eleven equity comparables in the subject neighborhood and an adjoining neighborhood. It is unclear exactly what information was supplied by Thomas and what was created by the Board of Review. There are several charts in the record, some handwritten and others computer generated. The petition to the Board of Review had five properties listed as equity comparables and an handwritten attachment title “tax assessment reduced.” This list has eleven properties, including four of the five listed on the actual petition form. One address (376 16th Street) at the bottom of this attachment had the address circled and the following note “incorrect address?” It is not known who wrote the note. The chart includes columns for house address, land assessment/assessment per square foot, improvement assessment/assessment per square foot, total assessment, and “reduced.” The

reduced column appears to be the total assessed dollar reduction from 2009 to 2010, based upon information found in the computer generated chart.

It also appears the computer generated chart was created by the assessor's office for the Board of Review. It is titled "11 Comparables Submitted By Petitioner – Equity." It has more detailed information including the GIS (parcel) number, the total living area (TLA), assessed value per TLA, condition, year built, and style code. The chart also breaks down the 2009 and 2010 assessments based upon land, improvement, and total, as well as, providing the total assessment dollar difference between 2009 and 2010. There is a note at the bottom of the chart that states the 2007 Board of Review action was removed for the 2010 assessment year for equity purposes.

Based upon the more detailed chart, the subject is assessed at normal condition compared to the properties submitted which range from observed/very poor to normal. Only four of the submitted equity comparables are rated as normal, similar to the subject. The subject was built in 1908 and all eleven of the sales were built in the same era between 1895 and 1915.

The subject property has 1259 square feet of TLA. The properties submitted range from 1237 square feet to 2219 square feet of TLA. Five of the properties have a TLA within 10% (roughly 125 square feet) of the subject property. Of those five properties, four are rated in normal condition and one is rated in below normal condition. Two of these five properties have a garage. All are similar in style.

These five properties have a total assessment per square foot ranging from \$30.00 to \$45.77. The median is \$41.65 compared to the subject property's total assessment per square foot of \$38.86. The subject property is below the median and within the range of values. Additionally, there is no comparison made by Thomas between the market value of the properties to their assessments to determine a ratio analysis.

The Board of Review submitted four comparables for equity comparison. All of them are two-story residential properties in the subject's neighborhood, all are similar size, and age. Three of the four are rated in normal condition similar to the subject, while one is rated in above-normal condition. None of the four have garages. The four comparables range in total assessed value per square foot from \$44.23 to \$49.13. The median is \$46.69, compared to the subject property's total assessed value per square foot of \$38.86. Like Thomas, the Board of Review did not make a comparison between the market value of the properties to their assessment to establish a ratio. However, we find the four properties submitted by the Board of Review, as well as the five most similar properties submitted by Thomas, are the most similar in style, size, location, and condition to the subject property and indicate the subject is not inequitably assessed.

Thomas also submitted a partially computer-generated and partially hand-written list of twenty-two comparable sales for consideration. The list is titled "Houses sold for less than assessment 231." The list includes the property street address, sale price, and assessment. Sales dates are not provided and it is assumed the 2010 assessment is listed. Again, the assessor provided the Board of Review a more detailed chart of Thomas' market comparables, providing the GIS number, street address, assessments, sale dates and prices, TLA, condition, year built, and style. We note for a second time, Thomas used sales that range in condition of below normal to very good, sales significantly larger than the subject property, and several sales which were the result of foreclosure, sheriff's sale, or auction. While there are twenty sales listed, two properties sold twice resulting in a total of eighteen properties considered. Additionally, we note that ten of the twenty market sales submitted by Thomas sold in 2008. This Board finds it hard to believe that more recent sales were not available. As such, we do not find 2008 sales to be reliable in determining a 2010 value.

Considering only sales with TLA between 1200 and 1500 square feet, having sold in 2009 and being arms-length transaction, only four of the Thomas' comparables meets these criteria. Two of the

four properties are rated as above normal and two are rated in normal condition similar to the subject. Two have garages. These four sales have an unadjusted sales price range of \$73,737 to \$98,500, and an unadjusted price per square foot range of \$51.16 to \$69.12. The median unadjusted sales price is roughly \$76,000 and the median price per square foot is \$58.12. Considering the unadjusted median price per square foot of all four sales, the subject property would have a value of roughly \$73,000 (1259 square feet X \$58.12 median price per square foot.) This data does not support a claim of over-assessment.

The Board of Review submitted four properties as market comparables. Two of the four sold in 2008. Again, we do not believe that more recent sales would not be available for analysis for a 2010 assessment value. The 2009 sales offered by the Board of Review indicate a unadjusted sales price per square foot of \$52.45, which further supports the previous analysis establishing the subject property is not over-assessed.

Reviewing all the evidence, we find the preponderance of evidence does not support Thomas' contention the subject property is inequitably assessed or that the property is assessed for more than authorized by law.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determined anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or

additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.* 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

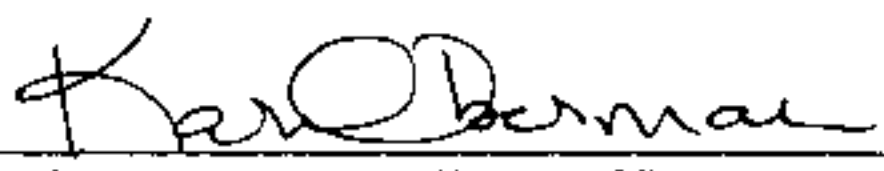
To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Striver*, 257 Iowa 575, 133 N.W.2d 709 (1965.) The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). It is our conclusion that Thomas failed to prove by a preponderance of the evidence that her assessment was inequitable.

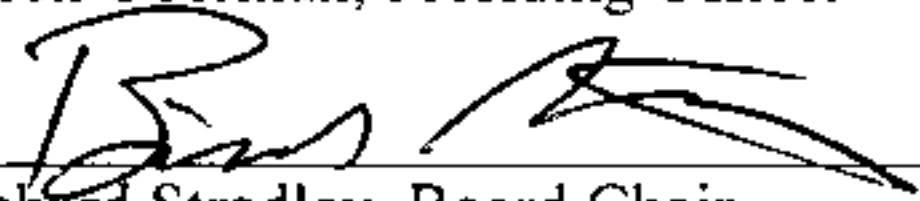
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Thomas failed to prove by a preponderance of evidence that the subject property is assessed for more than authorized by law. To the contrary, the sales data of the most recent sales submitted by Thomas and the Board of Review indicate the property is not over-assessed.

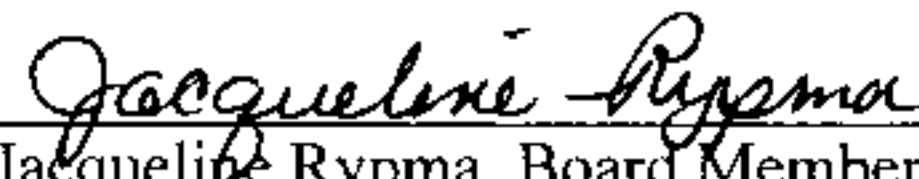
Viewing the record as a whole, we determine that the preponderance of the evidence did not support Thomas' claims. Therefore, we affirm the Thomas property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2010, is \$48,920.

THE APPEAL BOARD ORDERS that the January 1, 2010, assessment as determined by the City of Cedar Rapids Board of Review is affirmed.

Dated this 29 day of June 2011.


Karen Oberman, Presiding Officer


Richard Stradley, Board Chair


Jacqueline Rypma, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>6-29</u> , 2011.	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	